



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor Application of: Robert J. Fitzsimmons  
Serial No.: 10/080,642  
Filing Date: February 22, 2002  
Group Art Unit: Not Yet Assigned  
Examiner: Not Yet Assigned  
Title: STIMULATING CELL RECEPTOR ACTIVITY USING  
ELECTROMAGNETIC FIELDS

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

DECLARATION OF BRIAN W. OAKS IN SUPPORT OF PETITION  
PURSUANT TO 37 C.F.R. § 1.47(B)

I, Brian W. Oaks, hereby state that:

1. I am an attorney in the Dallas office of Baker Botts L.L.P. and represent Orthofix Inc. (hereinafter "Orthofix") in matters relating to Intellectual Property.

2. In February, 2002, I prepared the above-identified non-provisional patent application, which claims priority to a provisional application filed on February 23, 2001.

3. On February 18, 2002, I sent a draft of the patent application to the inventor, Robert J. Fitzsimmons, asking for his review of the application. This draft application was sent via e-mail to the last known e-mail address of Mr. Fitzsimmons provided to me by Orthofix. I received no response to this e-mail.

4. Because one year was about to expire since the filing of the provisional application, I filed the above-identified non-provisional patent application on February 22, 2002.

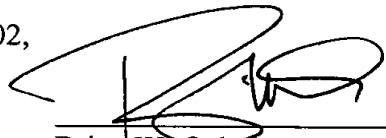
5. On February 25, 2002, I sent a copy of the filed non-provisional patent application, a Declaration and Power of Attorney, and an Assignment via e-mail to the last

known e-mail address of Mr. Fitzsimmons provided to me by Orthofix. I received no response to this e-mail from Mr. Fitzsimmons.

6. On April 18, 2002, I sent Mr. Fitzsimmons a package containing a cover letter, another copy of the non-provisional patent application as filed, a Declaration and Power of Attorney, and an Assignment using U.S. Postal Service certified mail. I received a self-addressed postcard evidencing Mr. Fitzsimmons' receipt of the certified mail package, but I have not received a response from Mr. Fitzsimmons to the letter.

7. I declare that all statements herein of my own knowledge are true and that all statements made on information and belief are believed to be true. Further, I acknowledge that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signed this 24<sup>th</sup> day of May 2002,

  
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Brian W. Oaks